

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Attorney Docket No. 004770.00130

In re U.S. Patent Application of:)	
Pyhalammi, et al.)	
)	Examiner: Wilson W. Tsui
Application No. 10/651,211)	
)	Group Art Unit: 2178
Filed: August 29, 2003)	
)	Confirmation No. 7632
For: Organization and Maintenance of)	
Images Using Metadata)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

U.S. Patent and Trademark Office, Mail Stop *AF*
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated in the below remarks. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit Deposit Account No. 19-0733, accordingly. Any necessary extensions of time are hereby requested.

Remarks

Having received and reviewed the Final Office Action dated December 29, 2009, Applicants respectfully submit that the standing rejections are based on one or more clear legal and factual errors, and that the appeal process can be avoided through a pre-appeal brief review as set forth in the Official Gazette notice of July 12, 2005.

Claim Rejections Under 35 U.S.C. § 103

Claims 14, 15, 18, 19, 20, 22, 23, 25, 27, 29, 30, 31, 32, 34-37, 54-56, 58, 59, 60, 62, and 64 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilcock et al. (US 2001/0015756) in view of Moore et al. (US 2004/0189707), and further in view of Rothmuller et al. (US 2003/0033296). Claims 24 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilcock in view of Moore and Rothmuller, and further in view of Takahashi et al. (US 5,537,528). Claim 33 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilcock in view of Moore and Rothmuller, and further in view of Wang et al. (US 5,802,361). Claims 48, 49, 51, and 52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilcock in view of Moore and Rothmuller, and further in view of Nagaoka (US 6,992,710). Claims 63, 66, and 67 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilcock in view of Moore and Rothmuller, and further in view of Kobayashi et al. (US 2003/0217118). Claim 65 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of Rothmuller. These rejections are traversed below.

Independent claim 14 recites, among other features, “identify a calendar entry in a calendar application based on the image date of the at least one image; provide a suggestion for a metadata subject field of the at least one image based on the calendar entry.”

The Office Action at page 6 correctly indicates that Wilcock and Moore fail to teach the above-noted features recited in claim 14. The Office Action contends that Rothmuller, at paragraphs [0025]-[0026] and Figure 1, describes identifying a calendar entry in a calendar application based on an image date of an at least one image and providing a suggestion for a metadata subject field of the at least one image based on the calendar entry. However, neither the cited Rothmuller passages nor any other Rothmuller passages describe such features.

Instead, Rothmuller at paragraph [0018] and Figure 1 merely describes a user applying tags 350 to photos by dragging and dropping graphical icons (representing the tags) onto one or more photos 1-4 displayed in an image area 100. Such tags can later be searched. See Rothmuller at paragraphs [0025] and [0026]. Applying tags to photos by dragging and dropping icons is clearly different from the recitation in claim 14 of providing a suggestion for a metadata subject field of an image based on an identified calendar entry. Accordingly, claim 14 is distinguishable from the applied documents (notwithstanding whether the alleged combination of documents would have been proper).

Independent claims 48, 54, 64, and 65 recite features similar to those described above with respect to claim 14 and are distinguishable from the applied documents for at least reasons analogous to those discussed above with respect to claim 14.

The dependent claims are distinguishable from the applied documents for at least the same reasons as their respective base claims and further in view of the unique combinations of features recited therein. For example, claim 33 recites “wherein the processor is further configured to identify, after selection of an image by a user, other images having metadata in common with the selected image, wherein the common metadata is metadata other than the metadata utilized to initially search for the selected image.” The Office Action at page 25 correctly indicates that Wilcock and Moore fail to teach such features. The Office Action at page 25 contends that Wang at col. 27, lines 1-10 describes such features. Applicants disagree. Wang at col. 25, line 26 – col. 27, line 10 describes a process of re-ranking image attributes in terms of their relevance/priority in response to a user selection of a subset of images provided in response to an entered search query composed of the image attributes. The re-ranking performed in Wang takes place with respect to the attributes of the entered search query. *See* Wang at col. 26, lines 33-67 (describing re-ranking the color, motion, and texture attributes associated with a search query in response to a user selection of images). Accordingly, Wang fails to describe identifying other images having metadata in common with a selected image, *wherein the common metadata is metadata other than the metadata utilized to initially search for the selected image* as recited in claim 33 because any re-ranking of attributes performed in Wang is with respect to attributes that have been entered as part of the search query. Claim 33 is distinguishable from the applied documents for at least these additional reasons (notwithstanding whether the alleged combination of documents would have been proper).

Applicants submit that the application is allowable for at least the reasons set forth above. Applicants reserve the right to include additional arguments in an appeal brief.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,
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